

**Introduced by Senator Evans
(Principal coauthor: Senator DeSaulnier)**

February 22, 2013

An act to amend Sections 21060.5, 21068, 21080.5, 21083.9, 21092, 21092.2, 21092.3, 21100, 21108, 21152, and 21161 of, to amend, repeal, and add Section 21167.6 of, to add and repeal Section 21167.6.2 of, and to repeal Sections 21080.01, 21080.02, 21080.03, and 21080.04 of, the Public Resources Code, relating to the California Environmental Quality Act.

LEGISLATIVE COUNSEL'S DIGEST

SB 617, as introduced, Evans. California Environmental Quality Act.

(1) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

CEQA authorizes the Secretary of the Natural Resources Agency to certify a regulatory program that meets specified requirements. CEQA provides that written documentation required by those certified regulatory programs may be submitted in lieu of an EIR. CEQA requires an administering agency to file with the secretary a notice of decision made pursuant to the certified regulatory program, which is required

to be available for public inspection. CEQA requires a lead agency to call a scoping meeting for specified projects and provide a notice of the meeting to specified entities. CEQA requires the lead agency or a project proponent to file a notice of approval or determination with Office of Planning and Research if the lead agency is a state agency or with the county clerk if the lead agency is a local agency. CEQA requires a public agency that has completed an EIR to file with the Office of Planning and Research a notice of completion.

CEQA requires a lead agency determining that an EIR is required for a project to send a notice of that determination to specified public agencies. CEQA requires a lead agency preparing an EIR, a negative declaration, or making a specified determination regarding a subsequent project to provide a public notice within a reasonable time period before the certification of the EIR, or the adoption of a negative declaration, or making the specified determination. CEQA requires those notices to be posted in the office of the county clerk in each county in which the project is located and requires the notices to remain posted for 30 days. CEQA requires the county clerk to post the notice within 24 hours of receipt.

This bill would additionally require the above mentioned notices to be filed with both the Office of Planning and Research and the county clerk and be posted by county clerk for public review. The bill would require the county clerk to post the notices within one business day, as defined, of receipt and stamp on the notice the date on which the notices were actually posted. By expanding the services provided by the lead agency and the county clerk, this bill would impose a state-mandated local program. The bill would require the county clerk to post the notices for at least 30 days. The bill would require the Office of Planning and Research to post the notices on a publicly available online database established and maintained by the office. The bill would require the office to stamp the notices with the date on which the notices were actually posted for online review and would require the notices to be posted for at least 30 days. The bill would authorize the office to charge an administrative fee not to exceed \$10 per notice filed. The bill would specify that a time period or limitation period specified by CEQA does not commence until the notice is actually posted for public review by the county clerk or is available in the online database, whichever is later. The bill would require the notice of determination to be filed solely by the lead agency.

(2) CEQA authorizes, for a project that is determined by a state agency to be exempted from the requirements of CEQA, a state agency or a project proponent to file a notice of determination with the Office of Planning and Research. CEQA authorizes, for a project that is determined by a local agency to be exempted from the requirements of CEQA, a local agency or a project proponent to file a notice of determination with the county clerk of the county in which the project is located.

This bill would require that notice of determination be filed with both the Office of Planning and Research and the county clerk. By requiring a county clerk to receive and post that notice of determination filed by a state agency, this bill would impose a state-mandated local program. The bill would provide that notice of determination be filed by the lead agency only.

(3) This bill would require the Office of Planning and Research and the county clerk, after the posting of the notices filed with them, to return the notice to the filing agency with a notation of the period the notice was posted. By requiring a county clerk to return the notice, this bill would impose a state-mandated local program.

(4) CEQA establishes a procedure for the preparation and certification of the record of proceedings upon the filing of an action or proceeding challenging a lead agency's action on the grounds of noncompliance with CEQA.

This bill would require, until January 1, 2017, the lead agency, at the request of a project applicant, to, among other things, prepare a record of proceedings concurrently with the preparation of negative declarations, mitigated negative declarations, EIRs, or other environmental documents for specified projects. Because the bill would require a lead agency to prepare the record of proceedings as provided, this bill would impose a state-mandated local program.

(5) CEQA defines "environment" and "significant effect on the environment" for its purposes. CEQA requires the EIR to include a detailed statement setting forth specified facts.

This bill would revise those definitions, as specified. This bill would additionally require the lead agency to include in the EIR a detailed statement on any significant effects that may result from locating development near, or attracting people to, existing or reasonably foreseeable natural hazards or adverse environmental conditions. Because the lead agency would be required to undertake this additional consideration, this bill would impose a state-mandated local program.

(6) The bill would repeal certain exemptions from the requirements of CEQA related to the California Men’s Colony West Facility, a prison facilities at or in the vicinity of Corcoran, certain prison facility in the County of King, and the Napa Valley Wine Train.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21060.5 of the Public Resources Code
2 is amended to read:

3 21060.5. “Environment” means the physical conditions ~~which~~
4 ~~that~~ exist within the area ~~which~~ *that* will be affected by a proposed
5 project, including land, air, water, minerals, flora, fauna, noise,
6 objects of historic or aesthetic significance, *as well as the health*
7 *and safety of people affected by the physical conditions at the*
8 *location of a project.*

9 SEC. 2. Section 21068 of the Public Resources Code is
10 amended to read:

11 21068. “Significant effect on the environment” means a
12 substantial, or potentially substantial, adverse change in the
13 environment. *“Significant effect on the environment” includes*
14 *exposure of people, either directly or indirectly, to substantial*
15 *existing or reasonably foreseeable natural hazard or adverse*
16 *condition of the environment.*

17 SEC. 3. Section 21080.01 of the Public Resources Code is
18 repealed.

19 ~~21080.01. This division shall not apply to any activity or~~
20 ~~approval necessary for the reopening and operation of the~~
21 ~~California Men’s Colony West Facility in San Luis Obispo County.~~

22 SEC. 4. Section 21080.02 of the Public Resources Code is
23 repealed.

24 ~~21080.02. This division shall not apply to any activity or~~
25 ~~approval necessary for or incidental to planning, design, site~~
26 ~~acquisition, construction, operation, or maintenance of the new~~

1 ~~prison facility at or in the vicinity of Corcoran in Kings County~~
2 ~~as authorized by the act that enacted this section.~~

3 SEC. 5. Section 21080.03 of the Public Resources Code is
4 repealed.

5 ~~21080.03. This division shall not apply to any activity or~~
6 ~~approval necessary for or incidental to the location, development,~~
7 ~~construction, operation, or maintenance of the prison in the County~~
8 ~~of Kings, authorized by Section 9 of Chapter 958 of the Statutes~~
9 ~~of 1983, as amended, and of the prison in the County of Amador~~
10 ~~(Ione), authorized by Chapter 957 of the Statutes of 1983, as~~
11 ~~amended.~~

12 SEC. 6. Section 21080.04 of the Public Resources Code is
13 repealed.

14 ~~21080.04. (a) Notwithstanding paragraph (10) of subdivision~~
15 ~~(b) of Section 21080, this division applies to a project for the~~
16 ~~institution of passenger rail service on a line paralleling State~~
17 ~~Highway 29 and running from Rocktram to Krug in the Napa~~
18 ~~Valley. With respect to that project, and for the purposes of this~~
19 ~~division, the Public Utilities Commission is the lead agency.~~

20 ~~(b) It is the intent of the Legislature in enacting this section to~~
21 ~~abrogate the decision of the California Supreme Court “that Section~~
22 ~~21080, subdivision (b)(11), exempts Wine Train’s institution of~~
23 ~~passenger service on the Rocktram-Krug line from the requirements~~
24 ~~of CEQA” in Napa Valley Wine Train, Inc. v. Public Utilities~~
25 ~~Com., 50 Cal. 3d 370.~~

26 ~~(c) Nothing in this section is intended to affect or apply to, or~~
27 ~~to confer jurisdiction upon the Public Utilities Commission with~~
28 ~~respect to, any other project involving rail service.~~

29 SEC. 7. Section 21080.5 of the Public Resources Code is
30 amended to read:

31 21080.5. (a) Except as provided in Section 21158.1, when the
32 regulatory program of a state agency requires a plan or other written
33 documentation containing environmental information and
34 complying with paragraph (3) of subdivision (d) to be submitted
35 in support of an activity listed in subdivision (b), the plan or other
36 written documentation may be submitted in lieu of the
37 environmental impact report required by this division if the
38 Secretary of the *Natural* Resources Agency has certified the
39 regulatory program pursuant to this section.

(b) This section applies only to regulatory programs or portions thereof that involve either of the following:

(1) The issuance to a person of a lease, permit, license, certificate, or other entitlement for use.

(2) The adoption or approval of standards, rules, regulations, or plans for use in the regulatory program.

(c) A regulatory program certified pursuant to this section is exempt from Chapter 3 (commencing with Section 21100), Chapter 4 (commencing with Section 21150), and Section 21167, except as provided in Article 2 (commencing with Section 21157) of Chapter 4.5.

(d) To qualify for certification pursuant to this section, a regulatory program shall require the utilization of an interdisciplinary approach that will ensure the integrated use of the natural and social sciences in decisionmaking and that shall meet all of the following criteria:

(1) The enabling legislation of the regulatory program does both of the following:

(A) Includes protection of the environment among its principal purposes.

(B) Contains authority for the administering agency to adopt rules and regulations for the protection of the environment, guided by standards set forth in the enabling legislation.

(2) The rules and regulations adopted by the administering agency for the regulatory program do all of the following:

(A) Require that an activity will not be approved or adopted as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen a significant adverse effect that the activity may have on the environment.

(B) Include guidelines for the orderly evaluation of proposed activities and the preparation of the plan or other written documentation in a manner consistent with the environmental protection purposes of the regulatory program.

(C) Require the administering agency to consult with all public agencies that have jurisdiction, by law, with respect to the proposed activity.

(D) Require that final action on the proposed activity include the written responses of the issuing authority to significant environmental points raised during the evaluation process.

1 (E) Require the filing of a notice of the decision by the
2 administering agency on the proposed activity ~~with the Secretary~~
3 ~~of the Resources Agency. Those notices shall be available for~~
4 ~~public inspection, and a list of the notices shall be posted on a~~
5 ~~weekly basis in the Office of the Resources Agency. Each list shall~~
6 ~~remain posted for a period of 30 days pursuant to Section 21092.3.~~

7 (F) Require notice of the filing of the plan or other written
8 documentation to be *posted pursuant to Section 21092.3* and made
9 to the public and to a person who requests, in writing, notification.
10 The notification shall be made in a manner that will provide the
11 public or a person requesting notification with sufficient time to
12 review and comment on the filing.

13 (3) The plan or other written documentation required by the
14 regulatory program does both of the following:

15 (A) Includes a description of the proposed activity with
16 alternatives to the activity, and mitigation measures to minimize
17 any significant adverse effect on the environment of the activity.

18 (B) Is available for a reasonable time for review and comment
19 by other public agencies and the general public.

20 (e) (1) The Secretary of the *Natural* Resources Agency shall
21 certify a regulatory program that the secretary determines meets
22 all the qualifications for certification set forth in this section, and
23 withdraw certification on determination that the regulatory program
24 has been altered so that it no longer meets those qualifications.
25 Certification and withdrawal of certification shall occur only after
26 compliance with Chapter 3.5 (commencing with Section 11340)
27 of Part 1 of Division 3 of Title 2 of the Government Code.

28 (2) In determining whether or not a regulatory program meets
29 the qualifications for certification set forth in this section, the
30 inquiry of the secretary shall extend only to the question of whether
31 the regulatory program meets the generic requirements of
32 subdivision (d). The inquiry may not extend to individual decisions
33 to be reached under the regulatory program, including the nature
34 of specific alternatives or mitigation measures that might be
35 proposed to lessen any significant adverse effect on the
36 environment of the activity.

37 (3) If the secretary determines that the regulatory program
38 submitted for certification does not meet the qualifications for
39 certification set forth in this section, the secretary shall adopt
40 findings setting forth the reasons for the determination.

(f) After a regulatory program has been certified pursuant to this section, a proposed change in the program that could affect compliance with the qualifications for certification specified in subdivision (d) may be submitted to the Secretary of the *Natural Resources Agency* for review and comment. The scope of the secretary's review shall extend only to the question of whether the regulatory program meets the generic requirements of subdivision (d). The review may not extend to individual decisions to be reached under the regulatory program, including specific alternatives or mitigation measures that might be proposed to lessen any significant adverse effect on the environment of the activity. The secretary shall have 30 days from the date of receipt of the proposed change to notify the state agency whether the proposed change will alter the regulatory program so that it no longer meets the qualification for certification established in this section and will result in a withdrawal of certification as provided in this section.

(g) An action or proceeding to attack, review, set aside, void, or annul a determination or decision of a state agency approving or adopting a proposed activity under a regulatory program that has been certified pursuant to this section on the basis that the plan or other written documentation prepared pursuant to paragraph (3) of subdivision (d) does not comply with this section shall be commenced not later than 30 days from the date of the ~~filing~~ *posting* of notice of the approval or adoption of the activity pursuant to *Section 21092.3*.

(h) (1) An action or proceeding to attack, review, set aside, void, or annul a determination of the Secretary of the *Natural Resources Agency* to certify a regulatory program pursuant to this section on the basis that the regulatory program does not comply with this section shall be commenced within 30 days from the date of certification by the secretary.

(2) In an action brought pursuant to paragraph (1), the inquiry shall extend only to whether there was a prejudicial abuse of discretion by the secretary. Abuse of discretion is established if the secretary has not proceeded in a manner required by law or if the determination is not supported by substantial evidence.

(i) For purposes of this section, a county agricultural commissioner is a state agency.

1 (j) For purposes of this section, an air quality management
2 district or air pollution control district is a state agency, except
3 that the approval, if any, by a district of a nonattainment area plan
4 is subject to this section only if, and to the extent that, the approval
5 adopts or amends rules or regulations.

6 (k) (1) The secretary, by July 1, 2004, shall develop a protocol
7 for reviewing the prospective application of certified regulatory
8 programs to evaluate the consistency of those programs with the
9 requirements of this division. Following the completion of the
10 development of the protocol, the secretary shall provide a report
11 to the Senate Committee on Environmental Quality and the
12 Assembly Committee on Natural Resources regarding the need
13 for a grant of additional statutory authority authorizing the secretary
14 to undertake a review of the certified regulatory programs.

15 (2) The secretary may update the protocol, and may update the
16 report provided to the legislative committees pursuant to paragraph
17 (1) and provide, in compliance with Section 9795 of the
18 Government Code, the updated report to those committees if
19 additional statutory authority is needed.

20 (3) The secretary shall provide a significant opportunity for
21 public participation in developing or updating the protocol
22 described in paragraph (1) or (2) including, but not limited to, at
23 least two public meetings with interested parties. A notice of each
24 meeting shall be provided at least 10 days prior to the meeting to
25 a person who files a written request for a notice with the agency
26 and to the Senate Committee on Environmental Quality and the
27 Assembly Committee on Natural Resources.

28 SEC. 8. Section 21083.9 of the Public Resources Code is
29 amended to read:

30 21083.9. (a) Notwithstanding Section 21080.4, 21104, or
31 21153, a lead agency shall call at least one *public* scoping meeting
32 for either of the following:

33 (1) A proposed project that may affect highways or other
34 facilities under the jurisdiction of the Department of Transportation
35 if the meeting is requested by the department. The lead agency
36 shall call the scoping meeting as soon as possible, but not later
37 than 30 days after receiving the request from the Department of
38 Transportation.

39 (2) A project of statewide, regional, or areawide significance.

(b) The lead agency shall provide notice of at least one *public* scoping meeting held pursuant to paragraph (2) of subdivision (a) *by posting a notice of meeting pursuant to Section 21092.3, and providing copies of the notice* to all of the following:

(1) A county ~~or, city, or tribal land~~ that borders on a county or city within which the project is located, unless otherwise designated annually by agreement between the lead agency and the county ~~or, city, or tribal government~~.

(2) A responsible agency.

(3) A public agency that has jurisdiction by law with respect to the project.

(4) A transportation planning agency or public agency required to be consulted pursuant to Section 21092.4.

(5) A public agency, organization, or individual who has filed a written request for the notice.

(c) For a public agency, organization, or individual that is required to be provided notice of a lead agency public meeting, the requirement for notice of a scoping meeting pursuant to subdivision (b) may be met by including the notice of a scoping meeting in the public meeting notice.

(d) A *public* scoping meeting that is held in the city or county within which the project is located pursuant to the federal National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.) and the regulations adopted pursuant to that act shall be deemed to satisfy the requirement that a *public* scoping meeting be held for a project subject to paragraph (2) of subdivision (a) if the lead agency meets the notice requirements of subdivision (b) or subdivision (c).

(e) The referral of a proposed action to adopt or substantially amend a general plan to a city or county pursuant to paragraph (1) of subdivision (a) of Section 65352 of the Government Code may be conducted concurrently with the *public* scoping meeting required pursuant to this section, and the city or county may submit its comments as provided pursuant to subdivision (b) of that section at the *public* scoping meeting.

SEC. 9. Section 21092 of the Public Resources Code is amended to read:

21092. (a) A lead agency that is preparing an environmental impact report or a negative declaration or making a determination pursuant to subdivision (c) of Section 21157.1 shall provide public

1 notice of that fact within a reasonable period of time prior to
2 certification of the environmental impact report, adoption of the
3 negative declaration, or making the determination pursuant to
4 subdivision (c) of Section 21157.1.

5 (b) (1) The notice shall specify the period during which
6 comments will be received on the draft environmental impact
7 report or negative declaration, and shall include the date, time, and
8 place of any public meetings or hearings on the proposed project,
9 a brief description of the proposed project and its location, the
10 significant effects on the environment, if any, anticipated as a result
11 of the project, the address where copies of the draft environmental
12 impact report or negative declaration, and all documents referenced
13 in the draft environmental impact report or negative declaration,
14 are available for review, and a description of how the draft
15 environmental impact report or negative declaration can be
16 provided in an electronic format.

17 (2) This section shall not be construed in any manner that results
18 in the invalidation of an action because of the alleged inadequacy
19 of the notice content if there has been substantial compliance with
20 the notice content requirements of this section.

21 (3) The notice required by this section shall be *filed and posted*
22 *pursuant to Section 21092.3 and* given to the last known name and
23 address of all organizations and individuals who have previously
24 requested notice, and shall also be given by at least one of the
25 following procedures:

26 (A) Publication, no fewer times than required by Section 6061
27 of the Government Code, by the public agency in a newspaper of
28 general circulation in the area affected by the proposed project. If
29 more than one area will be affected, the notice shall be published
30 in the newspaper of largest circulation from among the newspapers
31 of general circulation in those areas.

32 (B) Posting of notice by the lead agency on- and off-site in the
33 area where the project is to be located.

34 (C) Direct mailing to the owners and occupants of contiguous
35 property shown on the latest equalized assessment roll.

36 (c) For a project involving the burning of municipal wastes,
37 hazardous waste, or refuse-derived fuel, including, but not limited
38 to, tires, meeting the qualifications of subdivision (d), notice shall
39 be given to all organizations and individuals who have previously
40 requested notice and shall also be given by at least the procedures

1 specified in subparagraphs (A), (B), and (C) of paragraph (3) of
2 subdivision (b). In addition, notification shall be given by direct
3 mailing to the owners and occupants of property within one-fourth
4 of a mile of any parcel or parcels on which is located a project
5 subject to this subdivision.

6 (d) The notice requirements of subdivision (c) apply to both of
7 the following:

8 (1) The construction of a new facility.

9 (2) The expansion of an existing facility that burns hazardous
10 waste which would increase its permitted capacity by more than
11 10 percent. For purposes of this paragraph, the amount of expansion
12 of an existing facility shall be calculated by comparing the
13 proposed facility capacity with whichever of the following is
14 applicable:

15 (A) The facility capacity approved in the facility's hazardous
16 waste facilities permit pursuant to Section 25200 of the Health and
17 Safety Code or its grant of interim status pursuant to Section
18 25200.5 of the Health and Safety Code, or the facility capacity
19 authorized in any state or local agency permit allowing the
20 construction or operation of a facility for the burning of hazardous
21 waste, granted before January 1, 1990.

22 (B) The facility capacity authorized in the facility's original
23 hazardous waste facilities permit, grant of interim status, or any
24 state or local agency permit allowing the construction or operation
25 of a facility for the burning of hazardous waste, granted on or after
26 January 1, 1990.

27 (e) The notice requirements specified in subdivision (b) or (c)
28 shall not preclude a public agency from providing additional notice
29 by other means if the agency so desires, or from providing the
30 public notice required by this section at the same time and in the
31 same manner as public notice otherwise required by law for the
32 project.

33 SEC. 10. Section 21092.2 of the Public Resources Code is
34 amended to read:

35 21092.2. (a) The notices required pursuant to Sections 21080.4,
36 21080.5, 21083.9, 21092, 21108, 21152, and 21161 shall be mailed
37 to every person who has filed a written request for notices with
38 either the clerk of the governing body or, if there is no governing
39 body, the director of the agency. If the agency offers to provide
40 the notices by email, upon filing a written request for notices, a

1 person may request that the notices be provided to him or her by
2 email. The request may also be filed with any other person
3 designated by the governing body or director to receive these
4 requests. The agency may require requests for notices to be
5 annually renewed. The public agency may charge a fee, except to
6 other public agencies, that is reasonably related to the costs of
7 providing this service.

8 (b) Subdivision (a) shall not be construed in any manner that
9 results in the invalidation of an action because of the failure of a
10 person to receive a requested notice, if there has been substantial
11 compliance with the requirements of this section.

12 (c) The notices required pursuant to Sections 21080.4 and 21161
13 shall be provided by the State Clearinghouse to any legislator in
14 whose district the project has an environmental impact, if the
15 legislator requests the notice and the State Clearinghouse has
16 received it.

17 SEC. 11. Section 21092.3 of the Public Resources Code is
18 amended to read:

19 21092.3. (a) The notices required pursuant to Sections 21080.4
20 ~~and, 21080.5, 21083.9, 21092 for an environmental impact report,~~
21 ~~21108, 21152, and 21161 shall be filed with and posted for public~~
22 ~~review in the office of the county clerk of each county in which~~
23 ~~the project will be located and shall remain posted for a period of~~
24 ~~at least 30 days or the full duration of any time period under this~~
25 ~~division that may commence upon the filing of the notice, whichever~~
26 ~~is longer. The clerk shall, thereafter, return the notice to the filing~~
27 ~~agency with a notation of the period it was posted. The notice~~
28 ~~required pursuant to Section 21092 for a negative declaration shall~~
29 ~~be so posted for a period of 20 days, unless otherwise required by~~
30 ~~law to be posted for 30 days. The county clerk shall post the notices~~
31 ~~within 24 hours of receipt one business day of receipt and shall~~
32 ~~stamp on the notice the date on which it was actually posted for~~
33 ~~public review.~~

34 (b) *The notices required pursuant to Sections 21080.4, 21080.5,*
35 *21083.9, 21092, 21108, 21152, and 21161 shall be filed with, and*
36 *posted on, a publicly available, online database established and*
37 *maintained by the Office of Planning and Research. The online*
38 *database shall include the capability to view and download the*
39 *notices in the form filed with the Office of Planning and Research.*
40 *Notices filed in the online database shall be stamped by the Office*

1 of Planning and Research with the date on which they were
2 actually posted for online review by the public, and shall remain
3 electronically available in the database for a minimum of 10 years.
4 The Office of Planning and Research shall retain the physical copy
5 of the notice for at least 30 days or for the full duration of a time
6 period required pursuant to this division that may commence upon
7 the filing of the notice, whichever is longer. The Office of Planning
8 and Research shall, thereafter, return the notice to the filing agency
9 with a notation of the period it was posted. The Office of Planning
10 and Research shall post the notices in its online database within
11 one business day of receipt. The Office of Planning and Research
12 may require the agency filing the notice to pay an administrative
13 fee not to exceed ten dollars (\$10) per notice filed for the purposes
14 of maintaining its online database and implementing its duties
15 under this section. The agency filing the notice may recover its
16 filing costs from the person specified in subdivision (b) or (c) of
17 Section 21065, as reflected in the agency's record of proceedings.

18 (c) Any time periods or limitation periods established under
19 this division that are subject to the notices posted under this section
20 shall not commence until the notice is actually posted for public
21 review by the county clerk and in the online database maintained
22 by the Office of Planning and Research. If the county clerk and
23 the Office of Planning and Research posts the notice on different
24 days, the time period shall run from the date of the later posting.

25 (d) For the purposes of this section, "business days" does not
26 include Saturday, Sunday, or a day observed as a holiday by the
27 state government.

28 SEC. 12. Section 21100 of the Public Resources Code is
29 amended to read:

30 21100. (a) All lead agencies shall prepare, or cause to be
31 prepared by contract, and certify the completion of, an
32 environmental impact report on any project which they propose
33 to carry out or approve that may have a significant effect on the
34 environment. Whenever feasible, a standard format shall be used
35 for environmental impact reports.

36 (b) The environmental impact report shall include a detailed
37 statement setting forth all of the following:

38 (1) All significant effects on the environment of the proposed
39 project.

40 (2) In a separate section:

1 (A) Any significant effect on the environment that cannot be
2 avoided if the project is implemented.

3 (B) Any significant effect on the environment that would be
4 irreversible if the project is implemented.

5 (3) Mitigation measures proposed to minimize significant effects
6 on the environment, including, but not limited to, measures to
7 reduce the wasteful, inefficient, and unnecessary consumption of
8 energy.

9 (4) Alternatives to the proposed project.

10 (5) The growth-inducing impact of the proposed project.

11 (6) *Any significant effects that may result from locating*
12 *development near, or attracting people to, existing or reasonably*
13 *foreseeable natural hazards or adverse environmental conditions.*

14 (c) The report shall also contain a statement briefly indicating
15 the reasons for determining that various effects on the environment
16 of a project are not significant and consequently have not been
17 discussed in detail in the environmental impact report.

18 (d) For purposes of this section, any significant effect on the
19 environment shall be limited to substantial, or potentially
20 substantial, adverse changes in physical conditions which exist
21 within the area as defined in Section 21060.5.

22 (e) Previously approved land use documents, including, but not
23 limited to, general plans, specific plans, and local coastal plans,
24 may be used in cumulative impact analysis.

25 SEC. 13. Section 21108 of the Public Resources Code is
26 amended to read:

27 21108. (a) If a state agency approves or determines to carry
28 out a project that is subject to this division, the state agency shall
29 file notice of that approval or that determination with the Office
30 of Planning and Research *and with the county clerk of each county*
31 *in which the project will be located.* The notice shall identify the
32 person or persons in subdivision (b) or (c) of Section 21065, as
33 reflected in the agency's record of proceedings, and indicate the
34 determination of the state agency whether the project will, or will
35 not, have a significant effect on the environment and shall indicate
36 whether an environmental impact report has been prepared pursuant
37 to this division.

38 (b) If a state agency determines that a project is not subject to
39 this division pursuant to subdivision (b) of Section 21080 or
40 Section 21172, and the state agency approves or determines to

1 carry out the project, the state agency ~~or the person specified in~~
2 ~~subdivision (b) or (c) of Section 21065~~ may file notice of the
3 determination with the *county clerk of each county in which the*
4 *project will be located and the Office of Planning and Research.*

5 A notice filed pursuant to this subdivision shall identify the person
6 or persons in subdivision (b) or (c) of Section 21065, as reflected
7 in the agency's record of proceedings. A notice filed pursuant to
8 this subdivision by a person specified in subdivision (b) or (c) of
9 Section 21065 shall have a certificate of determination attached
10 to it issued by the state agency responsible for making the
11 determination that the project is not subject to this division pursuant
12 to subdivision (b) of Section 21080 or pursuant to Section 21172.
13 The certificate of determination may be in the form of a certified
14 copy of an existing document or record of the state agency.

15 ~~(e) A notice filed pursuant to this section shall be available for~~
16 ~~public inspection, and a list of these notices shall be posted on a~~
17 ~~weekly basis in the Office of Planning and Research. Each list~~
18 ~~shall remain posted for a period of 30 days. The Office of Planning~~
19 ~~and Research shall retain each notice for not less than 12 months.~~

20 SEC. 14. Section 21152 of the Public Resources Code is
21 amended to read:

22 21152. (a) If a local agency approves or determines to carry
23 out a project that is subject to this division, the local agency shall
24 file notice of the approval or the determination within five working
25 days after the approval or determination becomes final, with the
26 county clerk of each county in which the project will be located
27 *and with the Office of Planning and Research.* The notice shall
28 identify the person or persons in subdivision (b) or (c) of Section
29 21065, as reflected in the agency's record of proceedings, and
30 indicate the determination of the local agency whether the project
31 will, or will not, have a significant effect on the environment and
32 shall indicate whether an environmental impact report has been
33 prepared pursuant to this division. The notice shall also include
34 certification that the final environmental impact report, if one was
35 prepared, together with comments and responses, is available to
36 the general public.

37 (b) If a local agency determines that a project is not subject to
38 this division pursuant to subdivision (b) of Section 21080 or
39 pursuant to Section 21172, and the local agency approves or
40 determines to carry out the project, the local agency ~~or the person~~

1 ~~specified in subdivision (b) or (c) of Section 21065~~ may file a
2 notice of the determination with the county clerk of each county
3 in which the project will be located *and the Office of Planning and*
4 *Research*. A notice filed pursuant to this subdivision shall identify
5 the person or persons in subdivision (b) or (c) of Section 21065,
6 as reflected in the agency's record of proceedings. A notice filed
7 pursuant to this subdivision ~~by a person specified in subdivision~~
8 ~~(b) or (c) of Section 21065~~ shall have a certificate of determination
9 attached to it issued by the local agency responsible for making
10 the determination that the project is not subject to this division
11 pursuant to subdivision (b) of Section 21080 or Section 21172.
12 The certificate of determination may be in the form of a certified
13 copy of an existing document or record of the local agency.

14 ~~(c) A notice filed pursuant to this section shall be available for~~
15 ~~public inspection, and shall be posted within 24 hours of receipt~~
16 ~~in the office of the county clerk. A notice shall remain posted for~~
17 ~~a period of 30 days. Thereafter, the clerk shall return the notice to~~
18 ~~the local agency with a notation of the period it was posted. The~~
19 ~~local agency shall retain the notice for not less than 12 months.~~

20 SEC. 15. Section 21161 of the Public Resources Code is
21 amended to read:

22 21161. Whenever a public agency has completed an
23 environmental impact report, it shall cause a notice of completion
24 of that report to be filed with the *county clerk of each county in*
25 *which the project will be located and the Office of Planning and*
26 *Research*. The notice of completion shall briefly identify the project
27 and shall indicate that an environmental impact report has been
28 prepared. The notice of completion shall identify the project
29 location by latitude and longitude. Failure to file the notice required
30 by this section shall not affect the validity of a project.

31 SEC. 16. Section 21167.6 of the Public Resources Code is
32 amended to read:

33 21167.6. Notwithstanding any other ~~provision of~~ law, in all
34 actions or proceedings brought pursuant to Section 21167, except
35 *as provided for in Section 21167.6.2* or those involving the Public
36 Utilities Commission, all of the following shall apply:

37 (a) At the time that the action or proceeding is filed, the plaintiff
38 or petitioner shall file a request that the respondent public agency
39 prepare the record of proceedings relating to the subject of the
40 action or proceeding. The request, together with the complaint or

1 petition, shall be served personally upon the public agency not
2 later than 10 business days from the date that the action or
3 proceeding was filed.

4 (b) (1) The public agency shall prepare and certify the record
5 of proceedings not later than 60 days from the date that the request
6 specified in subdivision (a) was served upon the public agency.
7 Upon certification, the public agency shall lodge a copy of the
8 record of proceedings with the court and shall serve on the parties
9 notice that the record of proceedings has been certified and lodged
10 with the court. The parties shall pay any reasonable costs or fees
11 imposed for the preparation of the record of proceedings in
12 conformance with any law or rule of court.

13 (2) The plaintiff or petitioner may elect to prepare the record
14 of proceedings or the parties may agree to an alternative method
15 of preparation of the record of proceedings, subject to certification
16 of its accuracy by the public agency, within the time limit specified
17 in this subdivision.

18 (c) The time limit established by subdivision (b) may be
19 extended only upon the stipulation of all parties who have been
20 properly served in the action or proceeding or upon order of the
21 court. Extensions shall be liberally granted by the court when the
22 size of the record of proceedings renders infeasible compliance
23 with that time limit. There is no limit on the number of extensions
24 that may be granted by the court, but no single extension shall
25 exceed 60 days unless the court determines that a longer extension
26 is in the public interest.

27 (d) If the public agency fails to prepare and certify the record
28 within the time limit established in paragraph (1) of subdivision
29 (b), or any continuances of that time limit, the plaintiff or petitioner
30 may move for sanctions, and the court may, upon that motion,
31 grant appropriate sanctions.

32 (e) The record of proceedings shall include, but is not limited
33 to, all of the following items:

34 (1) All project application materials.

35 (2) All staff reports and related documents prepared by the
36 respondent public agency with respect to its compliance with the
37 substantive and procedural requirements of this division and with
38 respect to the action on the project.

39 (3) All staff reports and related documents prepared by the
40 respondent public agency and written testimony or documents

1 submitted by any person relevant to any findings or statement of
2 overriding considerations adopted by the respondent agency
3 pursuant to this division.

4 (4) Any transcript or minutes of the proceedings at which the
5 decisionmaking body of the respondent public agency heard
6 testimony on, or considered any environmental document on, the
7 project, and any transcript or minutes of proceedings before any
8 advisory body to the respondent public agency that were presented
9 to the decisionmaking body prior to action on the environmental
10 documents or on the project.

11 (5) All notices issued by the respondent public agency to comply
12 with this division or with any other law governing the processing
13 and approval of the project.

14 (6) All written comments received in response to, or in
15 connection with, environmental documents prepared for the project,
16 including responses to the notice of preparation.

17 (7) All written evidence or correspondence submitted to, or
18 transferred from, the respondent public agency with respect to
19 compliance with this division or with respect to the project.

20 (8) Any proposed decisions or findings submitted to the
21 decisionmaking body of the respondent public agency by its staff,
22 or the project proponent, project opponents, or other persons.

23 (9) The documentation of the final public agency decision,
24 including the final environmental impact report, mitigated negative
25 declaration, or negative declaration, and all documents, in addition
26 to those referenced in paragraph (3), cited or relied on in the
27 findings or in a statement of overriding considerations adopted
28 pursuant to this division.

29 (10) Any other written materials relevant to the respondent
30 public agency's compliance with this division or to its decision on
31 the merits of the project, including the initial study, any drafts of
32 any environmental document, or portions thereof, that have been
33 released for public review, and copies of studies or other documents
34 relied upon in any environmental document prepared for the project
35 and either made available to the public during the public review
36 period or included in the respondent public agency's files on the
37 project, and all internal agency communications, including staff
38 notes and memoranda related to the project or to compliance with
39 this division.

1 (11) The full written record before any inferior administrative
2 decisionmaking body whose decision was appealed to a superior
3 administrative decisionmaking body prior to the filing of litigation.

4 (f) In preparing the record of proceedings, the party preparing
5 the record shall strive to do so at reasonable cost in light of the
6 scope of the record.

7 (g) The clerk of the superior court shall prepare and certify the
8 clerk's transcript on appeal not later than 60 days from the date
9 that the notice designating the papers or records to be included in
10 the clerk's transcript was filed with the superior court, if the party
11 or parties pay any costs or fees for the preparation of the clerk's
12 transcript imposed in conformance with any law or rules of court.
13 Nothing in this subdivision precludes an election to proceed by
14 appendix, as provided in Rule 8.124 of the California Rules of
15 Court.

16 (h) Extensions of the period for the filing of any brief on appeal
17 may be allowed only by stipulation of the parties or by order of
18 the court for good cause shown. Extensions for the filing of a brief
19 on appeal shall be limited to one 30-day extension for the
20 preparation of an opening brief, and one 30-day extension for the
21 preparation of a responding brief, except that the court may grant
22 a longer extension or additional extensions if it determines that
23 there is a substantial likelihood of settlement that would avoid the
24 necessity of completing the appeal.

25 (i) At the completion of the filing of briefs on appeal, the
26 appellant shall notify the court of the completion of the filing of
27 briefs, whereupon the clerk of the reviewing court shall set the
28 appeal for hearing on the first available calendar date.

29 (j) *This section shall remain in effect only until January 1, 2017,*
30 *and as of that date is repealed, unless a later enacted statute, that*
31 *is enacted before January 1, 2017, deletes or extends that date.*

32 SEC. 17. Section 21167.6 is added to the Public Resources
33 Code, to read:

34 21167.6. Notwithstanding any other law, in all actions or
35 proceedings brought pursuant to Section 21167, except those
36 involving the Public Utilities Commission, all of the following
37 shall apply:

38 (a) At the time that the action or proceeding is filed, the plaintiff
39 or petitioner shall file a request that the respondent public agency
40 prepare the record of proceedings relating to the subject of the

1 action or proceeding. The request, together with the complaint or
2 petition, shall be served personally upon the public agency not
3 later than 10 business days from the date that the action or
4 proceeding was filed.

5 (b) (1) The public agency shall prepare and certify the record
6 of proceedings not later than 60 days from the date that the request
7 specified in subdivision (a) was served upon the public agency.
8 Upon certification, the public agency shall lodge a copy of the
9 record of proceedings with the court and shall serve on the parties
10 notice that the record of proceedings has been certified and lodged
11 with the court. The parties shall pay any reasonable costs or fees
12 imposed for the preparation of the record of proceedings in
13 conformance with any law or rule of court.

14 (2) The plaintiff or petitioner may elect to prepare the record
15 of proceedings or the parties may agree to an alternative method
16 of preparation of the record of proceedings, subject to certification
17 of its accuracy by the public agency, within the time limit specified
18 in this subdivision.

19 (c) The time limit established by subdivision (b) may be
20 extended only upon the stipulation of all parties who have been
21 properly served in the action or proceeding or upon order of the
22 court. Extensions shall be liberally granted by the court when the
23 size of the record of proceedings renders infeasible compliance
24 with that time limit. There is no limit on the number of extensions
25 that may be granted by the court, but no single extension shall
26 exceed 60 days unless the court determines that a longer extension
27 is in the public interest.

28 (d) If the public agency fails to prepare and certify the record
29 within the time limit established in paragraph (1) of subdivision
30 (b), or any continuances of that time limit, the plaintiff or petitioner
31 may move for sanctions, and the court may, upon that motion,
32 grant appropriate sanctions.

33 (e) The record of proceedings shall include, but is not limited
34 to, all of the following items:

35 (1) All project application materials.

36 (2) All staff reports and related documents prepared by the
37 respondent public agency with respect to its compliance with the
38 substantive and procedural requirements of this division and with
39 respect to the action on the project.

1 (3) All staff reports and related documents prepared by the
2 respondent public agency and written testimony or documents
3 submitted by any person relevant to any findings or statement of
4 overriding considerations adopted by the respondent agency
5 pursuant to this division.

6 (4) Any transcript or minutes of the proceedings at which the
7 decisionmaking body of the respondent public agency heard
8 testimony on, or considered any environmental document on, the
9 project, and any transcript or minutes of proceedings before any
10 advisory body to the respondent public agency that were presented
11 to the decisionmaking body prior to action on the environmental
12 documents or on the project.

13 (5) All notices issued by the respondent public agency to comply
14 with this division or with any other law governing the processing
15 and approval of the project.

16 (6) All written comments received in response to, or in
17 connection with, environmental documents prepared for the project,
18 including responses to the notice of preparation.

19 (7) All written evidence or correspondence submitted to, or
20 transferred from, the respondent public agency with respect to
21 compliance with this division or with respect to the project.

22 (8) Any proposed decisions or findings submitted to the
23 decisionmaking body of the respondent public agency by its staff,
24 or the project proponent, project opponents, or other persons.

25 (9) The documentation of the final public agency decision,
26 including the final environmental impact report, mitigated negative
27 declaration, or negative declaration, and all documents, in addition
28 to those referenced in paragraph (3), cited or relied on in the
29 findings or in a statement of overriding considerations adopted
30 pursuant to this division.

31 (10) Any other written materials relevant to the respondent
32 public agency's compliance with this division or to its decision on
33 the merits of the project, including the initial study, any drafts of
34 any environmental document, or portions thereof, that have been
35 released for public review, and copies of studies or other documents
36 relied upon in any environmental document prepared for the project
37 and either made available to the public during the public review
38 period or included in the respondent public agency's files on the
39 project, and all internal agency communications, including staff

1 notes and memoranda related to the project or to compliance with
2 this division.

3 (11) The full written record before any inferior administrative
4 decisionmaking body whose decision was appealed to a superior
5 administrative decisionmaking body prior to the filing of litigation.

6 (f) In preparing the record of proceedings, the party preparing
7 the record shall strive to do so at reasonable cost in light of the
8 scope of the record.

9 (g) The clerk of the superior court shall prepare and certify the
10 clerk's transcript on appeal not later than 60 days from the date
11 that the notice designating the papers or records to be included in
12 the clerk's transcript was filed with the superior court, if the party
13 or parties pay any costs or fees for the preparation of the clerk's
14 transcript imposed in conformance with any law or rules of court.
15 Nothing in this subdivision precludes an election to proceed by
16 appendix, as provided in Rule 8.124 of the California Rules of
17 Court.

18 (h) Extensions of the period for the filing of any brief on appeal
19 may be allowed only by stipulation of the parties or by order of
20 the court for good cause shown. Extensions for the filing of a brief
21 on appeal shall be limited to one 30-day extension for the
22 preparation of an opening brief, and one 30-day extension for the
23 preparation of a responding brief, except that the court may grant
24 a longer extension or additional extensions if it determines that
25 there is a substantial likelihood of settlement that would avoid the
26 necessity of completing the appeal.

27 (i) At the completion of the filing of briefs on appeal, the
28 appellant shall notify the court of the completion of the filing of
29 briefs, whereupon the clerk of the reviewing court shall set the
30 appeal for hearing on the first available calendar date.

31 (j) This section shall become operative on January 1, 2017.

32 SEC. 18. Section 21167.6.2 is added to the Public Resources
33 Code, to read:

34 21167.6.2. (a) Notwithstanding Section 21167.6, for a project
35 described in subdivision (f), upon the written request of a project
36 applicant received no later than 30 days after the date that a lead
37 agency makes a determination pursuant to subdivision (a) of
38 Section 21080.1, Section 21094.5, or Chapter 4.2 (commencing
39 with Section 21155), the lead agency shall prepare and certify the
40 record of proceedings in the following manner:

1 (1) The lead agency for the project shall prepare the record of
2 proceedings pursuant to this division concurrently with the
3 administrative process.

4 (2) All documents and other materials placed in the record of
5 proceedings that are not otherwise exempted from public disclosure
6 shall be posted on, and be downloadable from, an Internet Web
7 site maintained by the lead agency commencing with the date of
8 the release of the draft environmental document for a project
9 specified in subdivision (f). If the lead agency cannot maintain an
10 Internet Web site with the information required pursuant to this
11 section, the lead agency shall provide a link on the agency's
12 Internet Web site to that information.

13 (3) Except as provided in subdivision (r) of Section 6254 of the
14 Government Code, Section 6254.10 of the Government Code,
15 Section 304 of the National Historic Preservation Act (16 U.S.C.
16 Sec. 470w-3), or subdivision (d) of Section 15120 of Title 14 of
17 the California Code of Regulations, the lead agency shall make
18 available to the public, in a readily accessible electronic format,
19 the draft environmental document for a project specified in
20 subdivision (f) and all other documents submitted to, cited by, or
21 relied on by, the lead agency in the preparation of the draft
22 environmental document for a project specified in subdivision (f).

23 (4) A document prepared by the lead agency or submitted by
24 the applicant after the date of the release of the draft environmental
25 document for a project specified in subdivision (f) that is a part of
26 the record of the proceedings shall be made available to the public
27 in a readily accessible electronic format within five business days
28 after the document is released or received by the lead agency.

29 (5) The lead agency shall encourage written comments on the
30 project to be submitted in a readily accessible electronic format,
31 and shall make any comment available to the public in a readily
32 accessible electronic format within five days of its receipt.

33 (6) Within seven business days after the receipt of any comment
34 that is not in an electronic format, the lead agency shall convert
35 that comment into a readily accessible electronic format and make
36 it available to the public in that format.

37 (7) The lead agency shall certify the record of proceedings
38 within 30 days after the filing of the notice required pursuant to
39 Section 21108 or 21152.

1 (b) Any dispute regarding the record of proceedings shall be
2 resolved by the court in an action or proceeding brought pursuant
3 to Section 21167. The parties shall meet and confer in good-faith
4 effort to resolve any dispute before seeking resolution in court.

5 (c) The content of the record of proceedings shall be as specified
6 in subdivision (e) of Section 21167.6.

7 (d) Subdivisions (g) to (i), inclusive, of Section 21167.6 are
8 applicable to an appeal of a decision in an action or proceeding
9 brought pursuant to Section 21167.

10 (e) The negative declaration, mitigated negative declaration,
11 draft and final environmental impact report, or other environmental
12 document for a project specified in subdivision (f) shall include a
13 notice in no less than 12-point type stating the following:

14
15 “THIS NEGATIVE DECLARATION, MITIGATED
16 NEGATIVE DECLARATION, EIR, OR ENVIRONMENTAL
17 DOCUMENT IS SUBJECT TO SECTION 21167.6.2 OF THE
18 PUBLIC RESOURCES CODE, WHICH REQUIRES THE
19 RECORD OF PROCEEDINGS FOR THIS PROJECT TO BE
20 PREPARED CONCURRENTLY WITH THE
21 ADMINISTRATIVE PROCESS, DOCUMENTS PREPARED
22 BY, OR SUBMITTED TO, THE LEAD AGENCY TO BE
23 POSTED ON THE LEAD AGENCY’S INTERNET WEB SITE,
24 AND THE LEAD AGENCY TO ENCOURAGE WRITTEN
25 COMMENTS ON THE PROJECT TO BE SUBMITTED TO THE
26 LEAD AGENCY IN A READILY ACCESSIBLE ELECTRONIC
27 FORMAT.”

28
29 (f) This section applies to the record of proceedings for the
30 preparation of a negative declaration, mitigated negative
31 declaration, environmental impact report, or other environmental
32 document prepared for any of the following:

33 (1) A project determined to be of statewide, regional, or
34 areawide environmental significance pursuant to subdivision (d)
35 of Section 21083.

36 (2) A project subject to Section 21094.5 or Chapter 4.2
37 (commencing with Section 21155).

38 (3) (A) A project, other than one described in paragraphs (1)
39 and (2), for which the lead agency consents to prepare the record
40 of proceedings pursuant to this paragraph.

1 (B) The lead agency shall respond to a request by the project
2 applicant within 10 business days from the date that the request
3 pursuant to subdivision (a) is received by the lead agency.

4 (C) A project applicant and the lead agency may mutually agree,
5 in writing, to extend the time period for the lead agency to respond
6 pursuant to subparagraph (B), but they shall not extend that period
7 beyond the commencement of the public review period for the
8 proposed negative declaration, mitigated negative declaration, or
9 draft environmental impact report.

10 (D) The request to prepare a record of proceedings pursuant to
11 this paragraph shall be deemed denied if the lead agency fails to
12 respond within 10 business days of receiving the request or within
13 the time period agreed upon pursuant to subparagraph (C),
14 whichever ends later.

15 (g) The project applicant shall reimburse the lead agency for
16 the costs incurred in compliance with this section in a manner
17 specified by the lead agency, and a plaintiff or petitioner in an
18 action or proceeding filed pursuant to Section 21167, if any, is not
19 required to pay these costs.

20 (h) The costs of preparing the record of proceedings pursuant
21 to this section and complying with the requirements of this section
22 are not recoverable costs pursuant to Section 1033 of the Code of
23 Civil Procedure.

24 (i) This section shall remain in effect only until January 1, 2017,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2017, deletes or extends that date.

27 SEC. 19. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 a local agency or school district has the authority to levy service
30 charges, fees, or assessments sufficient to pay for the program or
31 level of service mandated by this act, within the meaning of Section
32 17556 of the Government Code.